

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIRECTIVE
MEMORANDUM

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| GENERAL SUBJECT: | <u>CONTRACTOR'S PERFORMANCE EVALUATION</u> | NUMBER: | <u>CD-2007-04</u> |
| | | DATE: | <u>July 24,2007</u> |
| SPECIFIC SUBJECT: | <u>COMPLETION,SUBMITTAL AND APPEALS PROCESS</u> | SUPERSEDES: | <u>CD-2002-8</u> |
| | | SUNSET/ EXPIRES: | <u>July 24,2012</u> |

Original w/Signature on file in Office of Scheduling
and Contract Division

W. BYRON COBURN, JR., P.E.
STATE CONSTRUCTION ENGINEER

DIRECTED TO - **DISTRICT ADMINISTRATORS**

General Statement:

The Department is responsible for ensuring that only qualified Contractors are permitted to participate in the construction program. This responsibility is specified in Section 102.01 of the *Road and Bridge Specifications Book* and in the Department's Rules for Prequalification.

The Contractor's Performance Evaluation (CPE) process is one indicator in assessing appropriate qualification for Contractors to participate in the construction program. The CPE specifically addresses the level of "construction quality" a Contractor or sub-contractor performs. These instructions are detailed to explain the scoring criteria for the CPE process, the unique reports for the CPE process, the schedule for submittals of the reports, the appeals process for the reports and the result of unsatisfactory performance.

The CPE process shall be discussed with the Contractor in detail at the Pre-Construction Meeting. Discussion should include the various reports, appeals process and frequency of reports. For any Subcontractor not present at the Preconstruction Meeting, the Contractor shall be responsible to inform them of the CPE Process

The reports for the CPE process in order of use are:

- CPE Interim (CPEi)
- CPE Subcontractor (CPEs)
- CPE Annual/Final

Timeline for minimum submittals:

CPE Interim (CPEi):

- Is due each month on the Prime Contractor.

CPE Subcontractor (CPEs):

- Is due each month for all subcontractor work performed unless waived by the Area Construction Engineer (ACE). When it is due, the submittal timing will coincide with the CPEi.

CPE Annual and Final (CPE) Evaluation is due:

- For both the Prime and Sub -Contractors, an annual CPE is due 12 months from the start of the project and each year the project is under construction. If the project is of **shorter duration than 1 year**, the CPE report must be completed at the **end of the project**.
- For both the Prime and Sub-Contractors, a final CPE is due at the completion of the project.

Contractor's Performance Evaluation-Interim (CPEi) -

The initial contractor's performance evaluation report to be scored is the CPEi. The Project Inspector is to complete the CPEi report on monthly intervals.

The Project's CPEi system is maintained on a database according to the users manual and operating instructions on each Inspector's individual PC which in turn will be saved into a master database. Each score will be selected by the Inspector. The total is automatically generated in the CPEi program.

There are 48 possible categories that may be evaluated on the CPEi. Inspectors score only items of work which occur that month.

Each category has an associated point value. Each element of each category should be evaluated; however, if a particular element of a category does not apply to a particular project, or does not apply to a particular evaluation period, a score is not entered for that element. The point value "0" is the default value, meaning no work on that item occurred since the last evaluation. Scoring for each element ranges from 1 to 4. A score of 4 indicates the Contractor exceeds Specifications requirements. A score of 3 indicates the Contractor complies with Specification requirements. A score of 2 indicates the Contractor does not meet Specifications. A score of 1 indicates the Contractor does not meet Specifications requirements and requires immediate corrective action. A score of zero must not be selected because it does not impact the Contractor's total monthly score either negatively or positively.

The Inspector's remarks portion should contain comments that support high or low scores. Once completed, the inspector sends the completed CPEi to the Construction Manager for review. Once reviewed, the Inspector is to provide a **paper copy** of the CPEi to the Contractor's Project Superintendent to discuss the factors that determined each score. The Contractor's Project Superintendent must be given the opportunity to provide written comments for each category. The Inspector will maintain the originally signed report by the Contractor in the project records.

The Inspector must email a copy to the Contractor's home office sent to the attention of the Contractor's representative selected at the pre-construction meeting.

The DCE is responsible for ensuring that the CPEi evaluation is completed properly and submitted on time.

It is suggested that the CPEi be submitted monthly from the start of the project.

The interim scores are transferred to the CPE Annual/Final Contractor's Performance Report via exporting and importing by the CPE program.

Subcontractor's Performance Evaluation (CPEs)

The initial Subcontractor's Performance Evaluation to be scored is the CPEs. The CPEs is nearly identical to the CPEi. The Project Inspector will complete a CPEs report for each subcontractor working that month, unless waived by the Area Construction Engineer (ACE).

This report should be completed in a manner similar to the process for the CPEi as described in the CPE training manual.

The subcontractor's evaluation should be reviewed with the subcontractor if possible at the project.

If a subcontractor is no longer at the work site, the completed CPEs must be sent by email to the subcontractor's home office which is listed in the Prequalification list available at www.virginiadot.org/business/const.

A copy of the subcontractor's performance report must also be sent by email to the **prime** Contractor's home office.

The subcontractor must sign and return the completed form to the Department sender within 10 calendar days of receipt.

If the subcontractor does not sign and return the subcontractor's performance report, this action must be noted on a copy of the report and notify the District Construction Engineer (DCE).

The DCE is responsible for ensuring that the CPEs report is completed properly and submitted on time.

Contractor's Performance Evaluation-Annual or Final (CPE)

The CPE annual/final is to be used for both prime and subcontractors.

Section I of the CPE Contractor's Performance Evaluation summarizes the CPE Interim Report or CPE subcontractor scores since the beginning of the project or since the last annual evaluation.

Interim scores are averaged to produce the interim average score that will be calculated to the nearest tenth.

Section II Residency or District Evaluation of the CPE Contractor's Performance Evaluation contains four categories for evaluation with various subsections.

- A. Safety
- B. Company Management of Project
- C. Environmental
- D. Final Product

Section II is to be completed by the Area Construction Engineer (ACE), with assistance from the Construction Manager (CM) or other district representative closely monitoring the project. In the case of a maintenance administered contract, the District Maintenance Engineer (DME) who was directly involved in the administration of the project will complete Section II. For Regional type contracts, Section II may be completed by the District responsible charge engineer who was directly involved in the administration of the project. This must be determined at the pre-construction conference.

As with the CPEi, only the applicable categories and elements should be scored. The scorer should read the associated questions in each category to help decide how many points to award. Category scores for Section II are to be recorded in whole numbers from 1 through 5. A score of 0 must not be given. It should be noted that these are direct points, as opposed to the 1 thru 4 scale used in the CPEi.

Section III Scoring Summary - Enter the computed scores for Sections I and II and follow the directions to complete scoring on the form.

Section IV VDOT Representative's remarks/comments These comments will contain documentation that supports the point values given in the various categories. Any deficient scores must be supported by contract documents.

The ACE will submit the CPE to the DCE for signature. The DCE will then send the original to the contractor for signature. The Contractor will be offered the opportunity to meet and discuss the evaluation with the ACE. The Contractor shall make comments; sign and return it to the ACE.

The original signed CPE report is to be immediately forwarded to the State Contract Engineer. The original evaluation will be kept on file in the Prequalification Office.

If the Contractor refuses to sign the evaluation or does not return it within the specified 10 calendar days, this action will be noted on a copy of the CPE report

Unsatisfactory Performance

A Contractor/Subcontractor will be removed from the list of prequalified bidders if he receives one score below 60, or three scores in a 24 month period below 70 on a CPE Annual/Final Report.

The State Contract Engineer will review the CPE and inform the Contractor when a scoring situation exists that may cause his removal from the list of prequalified vendors.

The Contractor has the right to appeal disqualification due to low evaluation scores according to the Prequalification Policy.

Note: During the time period August 2007 to Aug 2008, CPE scores will not affect the prequalification of the Contractor. This period will be used to assess whether the lower limits of 60% and 70% mentioned above should remain as limits.

Appeals Process:

CPEi- Interim Evaluation

The Contractor may appeal the CPEi. He must first appeal back to the Inspector within 3 working days of receipt. The Inspector responds within 3 working days thereafter. If the Contractor is not satisfied with the Inspector's response he may make a written appeal to the Construction Manager (CM) within 3 working days after receipt of Inspector's response. CM will respond within 3 working days. If still not satisfied a third appeal (in writing) may be made to the Area Construction Engineer (ACE) within 3 working days after receipt of CM response. The ACE will respond within 3 working days. The decision of the ACE is final and the report can not be further modified. The CPEi appeals process must be completed prior to the next monthly evaluation.

CPEs- Subcontractor Evaluation

Completed CPEs may be appealed in same timeframe as the CPEi with the exception that the appeal must first go through the Prime Contractor.

CPE Evaluation

For CPE annual/final evaluations, the first appeal is to the ACE in writing within 10 calendar days of receipt. The ACE will respond within 10 calendar days thereafter or arrange for a meeting with the Contractor. Should the Contractor not be satisfied with the ACE's response, the second written appeal may be made to the DCE within 10 calendar days after receipt of ACE's response. The DCE will respond within 10 days or arrange for a meeting with the Contractor. Should the Contractor not be satisfied with the DCE's response, the third written appeal may be made to the (DA) within 10 calendar days after receipt of DCE's response. The DA will respond within

10 days or arrange for a meeting with the Contractor. The decision of the DA is final and the report will not be further modified.

CPEi, CPE & CPEs Evaluations

If the Contractor receives disqualifying scores as stated in the “Unsatisfactory Performance” Section of this CD and elects not to appeal, or the Department’s evaluation is upheld after the appeal, the Contractor will be removed from the list of prequalified bidders for a period of 90 days.

The Contractor may continue to submit bids during the appeals process; however, these bids *will not* be awarded if the Department does not reverse the decision to remove the Contractor from the list of prequalified bidders.

At the end of the 90-day removal period, if the Contractor wishes to be reinstated to the list of prequalified bidders, the Contractor shall furnish a quality control plan that addresses corrective action for previous issues that caused the suspension. Prequalification will not be reinstated until the quality control plan has been approved by the State Construction Engineer.

C: Commissioner
 Deputy Commissioner
 Commissioner’s Staff
 Division Administrators
 District Construction Engineers
 District Maintenance Engineers
 District Materials Engineers
 District Preliminary Engineering Managers
 District L&D Engineers
 District Civil Rights Managers
 District Contract Administrators
 Regional Operations Directors
 Residency Administrators
 Area Construction Engineers
 Construction Managers
 Project Inspectors
 Federal Highway Administration
 Office of the Attorney General
 Virginia Department of Minority Business Enterprise
 Virginia Transportation Construction Alliance
 Old Dominion Highway Contractors Association
 Virginia Asphalt Association
 American Concrete Pavement Association
 Virginia Ready-Mixed Concrete Association
 Precast Concrete Association of Virginia
 Division Library